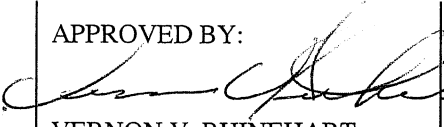


<input checked="checked" type="checkbox"/>	R/W MANUAL CHANGE (1993 Edition)
<input type="checkbox"/>	PROCEDURAL HANDBOOK (1984 Edition)

RWMC- 134

RWPH-____-____-____
TRANSMITTAL#____

TITLE: RELOCATION ASSISTANCE	APPROVED BY:  VERNON V. RHINEHART	DATE ISSUED: FEB 26 2004 Page 1 of 2
SUBJECT AREA: CHAPTER 10 - RELOCATION ASSISTANCE	ISSUING UNIT: OFFICE OF RIGHT OF WAY PROJECT DELIVERY	
SUMMARY OF CHANGES: Revises Table of Contents for sections, Section 10.03.00.00, Table of Contents for forms, Forms RW 10-18, RW 10-19, RW 10-20, RW 10-21, RW 10-23, RW 10-24, and RW 10-41.		

PURPOSE

The purpose of this manual change is to provide the new 90-day and 30-day RAP Notices which clarify that they cannot be used to vacate the property. Vacating the property must be initiated by Property Management. The revised sections of 10.03.00.00 ensure that RAP coordinates the delivery of the notices with Acquisition, and that the notices are effective on or shortly after the day the Department obtains control of the property.

In addition, the Tables of Contents have been revised; formatting update has been applied; and typographical errors have been corrected.

PROCEDURES

- | | |
|--------------------------------|--|
| 10.03.04.00 | Clarifies that the agent who issues the Notice of Intent to Acquire (NIA) to the owner must provide the RAP package. |
| 10.03.09.00 | References the new form name and number for 90-Day Information Notice, 90-Day Specific Notice, and 30-Day Specific Notice. |
| 10.03.09.01 | Provides information on when the RAP Notices are delivered. They no longer need to be served since they cannot be used to actually vacate the property. Process ensures that the RAP Notices are effective on or shortly after the day the Department obtains control of the property. This will facilitate Property Management's ability to manage the property until it needs to be vacated for the project. |
| 10.03.09.02 | States the information in the RAP Notices advises the displacees that at the time the Department obtains control of the property, they will become state tenants if they have not vacated. |
| 10.03.09.04 | References the new form names, 90-Day Specific and 30-Day Specific Notices. |
| 10.03.10.00 | Minor corrections to the wording to remove redundancy with previous sections. |
| 10.03.11.00 | Clarifies that state-inherited tenants are still eligible for RAP benefits when Property Management issues their notice to vacate, regardless of cause. |
| 10.03.12.00 and
10.03.13.01 | Minor correction to wording. |

RW 10-18	<p>90-DAY INFORMATION NOTICE - RESIDENTIAL OCCUPANT</p> <p>Minor revision to form title. Removes the requirement for service, and advises displacee that they will receive a 30-Day Specific Notice at a later date.</p>
RW 10-19	<p>90-DAY INFORMATION NOTICE - NONRESIDENTIAL OCCUPANT</p> <p>Minor revision to form title. Removes the requirement for service, and advises displacee that they will receive a 30-Day Specific Notice at a later date.</p>
RW 10-20	<p>90-DAY SPECIFIC NOTICE - RESIDENTIAL OCCUPANT</p> <p>Revised "Notice to Vacate" to "Specific Notice." Removes the requirement for service, and advises displacee that they will become a state tenant on the date the Department obtains control.</p>
RW 10-21	<p>90-DAY SPECIFIC NOTICE - NONRESIDENTIAL OCCUPANT</p> <p>Revised "Notice to Vacate" to "Specific Notice." Removes the requirement for service, and advises displacee that they will become a state tenant on the date the Department obtains control.</p>
RW 10-23	<p>30-DAY SPECIFIC NOTICE - RESIDENTIAL OCCUPANT</p> <p>Revised "Notice to Vacate" to "Specific Notice." Removes the requirement for service, and advises displacee that they will become a state tenant on the date the Department obtains control.</p>
RW 10-24	<p>30-DAY SPECIFIC NOTICE - NONRESIDENTIAL OCCUPANT</p> <p>Revised "Notice to Vacate" to "Specific Notice." Removes the requirement for service, and advises displacee that they will become a state tenant on the date the Department obtains control.</p>
RW 10-41	<p>COMPUTATION OF RENT DIFFERENTIAL PAYMENT</p> <p>Replaces previous form to provide better guidance to staff in determining the maximum rent differential that can be paid.</p>

EFFECTIVE DATE

Immediately.

MANUAL IMPACT

- Remove the superseded pages and insert the attached pages in the Manual.
- Record the action on the Revision Record.

REVISION SUMMARY

<u>Chapter</u>	<u>Remove Old Page(s)</u>	<u>Insert New/Revised Page(s)</u>
	Remove the following in its entirety:	Replace with the following in its entirety:
10 - Sections	<p>Table of Contents (REV 9/2003)</p> <p>10.03.00.00 (REV 10/2002)</p>	<p>Table of Contents (REV 2/2004)</p> <p>10.03.00.00 (REV 2/2004)</p>
10 - Forms	<p>Table of Contents (REV 9/2003)</p> <p>RW 10-18 (7/1995)</p> <p>RW 10-19 (7/1995)</p> <p>RW 10-20 (REV 5/2001)</p> <p>RW 10-21 (REV 5/2001)</p> <p>RW 10-23 (7/1995)</p> <p>RW 10-24 (7/1995)</p> <p>RW 10-41 (7/1995)</p>	<p>Table of Contents (REV 2/2004)</p> <p>RW 10-18 (REV 2/2004)</p> <p>RW 10-19 (REV 2/2004)</p> <p>RW 10-20 (REV 2/2004)</p> <p>RW 10-21 (REV 2/2004)</p> <p>RW 10-23 (REV 2/2004)</p> <p>RW 10-24 (REV 2/2004)</p> <p>RW 10-41 (REV 2/2004)</p>

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10.03.00.00 - RELOCATION NOTICES and OCCUPANCY CERTIFICATIONS

10.03.01.00 Notices

The Uniform Act and 49 CFR 24 prescribe general requirements governing the provision of relocation payments and other relocation assistance. The requirements mandate that potential displacees receive appropriate and timely notices that explain the relocation program and their entitlements.

As such, the Region/District must provide all potential displacees with the appropriate notice described in this section, in writing and within the time frame prescribed.

If the person is unable to read and understand the notice, the RAP Agent must provide the person with appropriate translation and counseling.

Each notice will include the name and telephone number of the RAP Agent to be contacted for answers to questions or other needed help.

All notices should be personally served. If personal service is impossible (occupants are in the armed forces, impacted property is for storage only), the notice may be sent by certified or registered first-class mail (return receipt requested and received), with another copy of the notice sent simultaneously by regular first-class mail. The date of service shall be 5 days for California residents, 10 days for U.S. residents, and 20 days for all others.

10.03.02.00 General Information Notice [49 CFR 24.203(a)]

The first notice provided to the potential displacees is the General Information Notice (GI Notice) (RW 10-7). The mandatory format should not be changed except to add the potential displacee's name and the project identification (Dist-Co-Rte-K.P.-Parcel) and the date the Notice is sent.

The GI Notice is mailed to the potential displacee within three (3) working days of the RAP Branch's receipt of the Parcel Occupancy Data Sheet provided by the Appraiser.

The Notice should be mailed with a copy of the appropriate Relocation Brochure and the assigned Agent's phone number.

Since Title VI information is provided to the owners by either the Appraiser or the Acquisition Agent, the RAP Branch need only send the Title VI information (see 2.04.01.02) to tenants or lessees.

The purpose of the GI Notice is to briefly describe the relocation program and to inform the potential displacees that they will be:

- (1) displaced by a public project,
- (2) given reasonable relocation advisory services, including referrals of replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate,
- (3) given 90 days' advance written notice before they are required to move,
- (4) given the address of at least one comparable replacement residential property before they are required to move,
- (5) and they have the right to appeal if they question the Department's determination of eligibility or benefits.

The RAP Agent must send the GI Notice to all owner and tenant/lessee occupied properties. The owner cannot prevent the District from notifying tenants of the benefits they may be eligible to receive under the Uniform Act. The RAP Agent should advise the owner that it is necessary that the tenants receive a full explanation of the relocation program that includes advising them that there is no rush for them to relocate. If the owner is concerned the tenants will move and there will be a loss of rental income, the Region/District may offer to make a payment to replace lost rent for vacancies occurring due to relocation for a reasonable period of time.

10.03.03.00 Legal Residency Requirement to Obtain Benefits

All relocation notices must inform the persons that anyone not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child.

Notice to potential displaced persons of legal U.S. residency requirements to obtain benefits will be made at the earliest possible time, but no later than the provision of the GI Notice (RW 10-7). Information on residency requirements will be included in the RAP package made available to owners and tenants.

Requirements for U.S. Certification will be included in the General Relocation Information Notice, the Relocation Brochure, and all Notices of Eligibility and Conditional Entitlement Letters.

10.03.04.00 Notice of Intent to Acquire (NIA)

Normally, the first notice the owner of the property receives is a Notice of Intent to Appraise or a Notice of Intent to Inspect (\$10,000 and Under approach) from the Appraisal Branch. However, the owner could have contacted the Region/District earlier because of a need to relocate prior to the Appraiser's inspection. If the Region/District determines that there is a need to protect the owner's relocation benefits, then the Acquisition Branch (see 5.03.00.00) will send an NIA (RW 10-8) to the owner-occupants to:

- Protect the eligibility of prospective displacees who need to move prior to the first written offer on the parcel.
- Prevent dual eligibility.
- Assure that all persons are fully aware of relocation assistance benefits and requirements.

The Region/District DDC should use the following to determine if an NIA is appropriate:

- Only owner-occupants (residential/nonresidential) qualify.
- The owner-occupant must meet the same criteria for a hardship outlined in Section 5.03.04.01.
- The owner-occupant must agree to rent the property back to the Department for economic rent.
- The appraisal must be complete and a first written offer made within 60 days. In some instances, the appraiser may have already issued the Notice of Decision to Appraise and/or inspected the property, but the determination of fair market value (and the subsequent FWO) will be delayed beyond a reasonable period of time, and the owner-occupant must relocate immediately.
- If the owner-occupant does not accept the offer within the prescribed time (60-90 days), condemnation proceedings must be initiated, or the acquisition offer withdrawn (see 5.03.04.06).

NIA LIMITATIONS	
Project Type	Issuance
Regularly funded	Do not issue the NIA until the initiation of negotiations for the project has been authorized.
Federally funded	In addition to the above, do not issue the NIA prior to FHWA authorizing acquisition on the project.
Not regularly funded	Appropriate formal approval of a Hardship Acquisition is required, along with the owner-occupant's statement that they must relocate prior to the FWO.

The Agent issuing the NIA to the owner must provide the RAP package. The Conditional Entitlement Letter with the specific amount of the RHP cannot be provided to the owner-occupant until the appraisal is complete and the first written offer made by the Acquisition Agent. It is strongly suggested that the RAP Agent accompany the Acquisition Agent on the FWO as eligibility for relocation benefits and initial information was already provided.

In some cases, the owner-occupant may not be available for a personal call to deliver the NIA, FWO, or RAP Package because they have relocated out of the area. In that case, all documents must be mailed certified to the owner.

The NIA shall be dated the day that it is served. It shall contain the anticipated date of initiation of negotiations and specify how additional information pertaining to relocation benefits can be obtained.

The NIA should never be issued to tenants or lessees (residential/nonresidential).

10.03.05.00 **Certificates of Occupancy**

To be eligible for relocation benefits, status of the occupants must be obtained via a certification of occupancy.

The Appraiser provides the Parcel Occupancy Data Sheet to the RAP Senior stating the type of occupants on the property (residential or business, owner or tenant/lessee) and the approximate time period they have occupied the property.

The Acquisition Agent obtains a signed Certificate of Occupancy and Receipt of Relocation Benefits at the time of the FWO (and first RAP Call) for all owner occupied properties. This will determine the number of occupants that are eligible for DS&S housing and their tenure.

The Acquisition Agent obtains a signed Owner's Certificate of Tenants from the owner at the time of the FWO. The RAP Agent will make the first RAP Call on the tenants and verify the information on the Certificate.

All occupants must certify their residency status at the time of the first RAP Call.

10.03.06.00 **U.S. Residency Certification**

Certification should be done by completing RW 10-44 at the time the owner or tenant signs the Certificate of Occupancy or receives the Notice of Eligibility, whichever is earlier.

For residential occupants, the head of household will certify himself/herself and may also certify other family members.

A sole proprietor will certify himself/herself.

For partnerships and corporations, the certification may be signed by a person authorized to sign on the entity's behalf.

The Department must receive certification before any claim can be paid.

10.03.07.00 **Notices of Eligibility [49 CFR 24.203(b)]**

Eligibility for relocation assistance shall begin on the date of initiation of negotiations (generally the FWO, but possibly the date of the NIA) for the occupied property. When this occurs, the Region/District must provide the occupants with a notice, in writing, of their eligibility for applicable relocation assistance via a Notice of Eligibility.

This makes the Notice of Eligibility the most important document that is provided to the displacee because it informs them that they have been determined to be eligible for relocation benefits. There is a different Notice of Eligibility for each type of occupancy, so care must be exercised to ensure that the appropriate Notice of Eligibility is provided in a timely manner.

The Notice of Eligibility for owners (residential and nonresidential) MUST be given by either the Acquisition Agent or the RAP Agent on the day of the FWO. The Notice of Eligibility for tenants or lessees (residential and nonresidential) MUST be given by the RAP Agent within 14 days of the FWO.

The timing and format for each type of Notice of Eligibility is described in Table 10.03-A. Refer back to Table 10.01-A if there is a question about type of occupancy. See 10.04.00.00 (residential) and 10.05.00.00 (nonresidential) for specific details about the type of relocation benefits.

Table 10.03-A

DELIVERY OF NOTICES OF ELIGIBILITY		
Notice	Timing	Form
180-Day Homeowner Occupants	Notice of Eligibility: As part of the RAP Package, at the time of the FWO by the Acquisition Agent.	RW 10-11
	Conditional Entitlement Letter with specific amounts for the Fixed Move Schedule and the PD, within 30 days of FWO.	RW 10-11A
90-Day Occupants	Notice of Eligibility: As part of the RAP Package, at FWO of a 90-day owner or a 90-day tenant, or within 14 days of FWO by the RAP Agent.	RW 10-12
	When displacees indicate they are actively looking for a displacement dwelling, or when the Department has control of the property (e.g., COE, Effective OP, Executed RE or APU, FOC) - whichever occurs first.	RW 10-13
Non-Tenured Occupants	Notice of Eligibility: As part of the RAP Package, within 14 days of FWO by the RAP Agent. For occupants who move in after the FWO, within 14 days of notification that they are in occupancy.	RW 10-14
	When displacees indicate they are actively looking for a displacement dwelling, but not before the Department has control of the property (e.g., COE, Effective OP, Executed RE or APU, FOC) - whichever occurs first.	RW 10-16
Business, Farm, or Nonprofit Organization	Owner Occupants - at the time of the FWO by Acquisition Agent. Lessees/Tenants Occupants - within 14 days of FWO.	RW 10-17
Non-Occupant Owner - whose sole activity at the site is leasing space to others	At the time of the FWO.	RW 10-43
Personalty Only	Owner - at FWO. Tenant - 14 days.	RW 10-15

10.03.08.00 **Reminder Notice**

The RAP Agent shall send timely written notification of the possible loss of rights and expiration dates to persons who:

- Are eligible for monetary benefits, and
- Have moved from the acquired property, but
- Have not filed a claim.

Notification shall be sent periodically throughout the qualification period. If no response to the written notification is received, the RAP Agent should make telephone contact within the appropriate time limit and document the contact in the parcel diary.

Notices of Eligibility are delivered with the RAP Package:

- a) to the owners by the Acquisition Agent during the FWO.
- b) to tenants by the RAP Agent within 14 days of the FWO (exception: RW 10-13 and RW 10-15).

If an updated RHV indicates a change in entitlement amount, the RAP Agent must send a revised entitlement letter to displacee.

10.03.09.00 **90-Day Notices [49 CFR 24.203(c)]**

No eligible displacee shall be required to move unless he or she has received at least 90 days' advance written notice of the earliest date by which he or she may be required to move.

There are two alternative methods for providing notice to vacate:

- 90-Day Information Notice (RW 10-18, RW 10-19) followed by a 30-Day Specific Notice (RW 10-23, RW 10-24) with date certain.
- 90-Day Specific Notice (RW 10-20, RW 10-21) with date certain.

10.03.09.01 **Timing**

Timing for service of notices is based on project certification dates. Notices should be delivered with adequate lead time to carry out a timely, orderly, and humane relocation program. Displacees shall be given a 90-Day Information Notice 30 days after the Department's Conditional Entitlement Letter (residential) or 30 days after estimates are obtained for moving (nonresidential). When at least 60 days have passed, a 30-Day Specific Notice must be delivered IF the effective date is after the state obtains control of the property.

The 90-Day Information Notice may not be delivered prior to initiation of negotiations for acquisition for the property. 90-Day and 30-Day Specific Notices (49 CFR 24) cannot be given if control of the property has not been initiated via a Right of Way Contract, an RE or APU, or initiation of condemnation, and the Region/District is sure that the Department will have control of the property prior to the "date certain" provided in the notice.

Residential displacees must be informed of the maximum relocation housing payment (RHP) amount prior to receiving a 90-day notice (with the appropriate Conditional Entitlement Letter), along with at least one address of a comparable replacement property that is available and within the range of the RHP.

Situations will occur where projects slip and the need for clearance is postponed after issuance of 90-Day Information Notices. If a 30-Day Specific Notice is not served within six months following issuance of the 90-Day Information Notices, the original 90-Day Information Notices shall be canceled and a 90-Day Specific Notice issued when the Department is assured it will obtain control of the property within 90 days.

Absentee owners of personal property are considered to be occupants of real property to be acquired and ARE entitled to 90-day notices. Any person who exercises physical control over the land, including the right to store personal property on the land, is a lawful occupant and is entitled to 90-day notices.

See Table 10.03-A.

10.03.09.02 **Content**

The 90-day notices state that the displacement property will be acquired for a highway project. The Information Notice states a 30-Day Specific Notice will follow; and for residential occupants, it provides the addresses of comparable replacement properties.

The 90-Day and 30-Day Specific Notices advise the displacees that at the time the Department obtains control of the property, they will become state tenants if they have not vacated. They also provide the addresses of comparable replacement property for residential occupants.

10.03.09.03 **90-Day Information Notice**

The 90-Day Information Notice is not a notice to vacate. The RAP Agent serves the 90-Day Information Notice in person on eligible and ineligible lawful occupants who:

- Are required to vacate because of the proposed construction or other State use, and
- Have personal property located on the acquired property.

Since replacement housing must be available and offered to eligible displacees before a Notice to Vacate can be issued, District Right of Way must coordinate acquisition, clearance, rental, and RAP functions to ensure appropriate notices are issued in a timely manner to vacate the property and certify the project.

10.03.09.04 **90-Day and 30-Day Specific Notices**

A 30-Day Specific Notice may be issued after 60 days have passed since the 90-Day Information Notice was issued if control of the property is expected within 30 days. This notice cites a specific date that the displacee will become a state tenant. Revisions can be issued if the anticipated date of control is delayed. Extending the 90-Day or 30-Day Specific Notice does not affect the validity of any notices issued by property management preceding an unlawful detainer action.

Since no eligible residential displacee shall be served a 90-day notice unless appropriate housing is available, the address of at least one available comparable property replacement, but preferably three, must be offered to displacee simultaneously with each notice. The property must be available and must not exceed the “probable replacement value or rent” provided to the displacee in the latest Notice of Eligibility or Conditional Entitlement Letter.

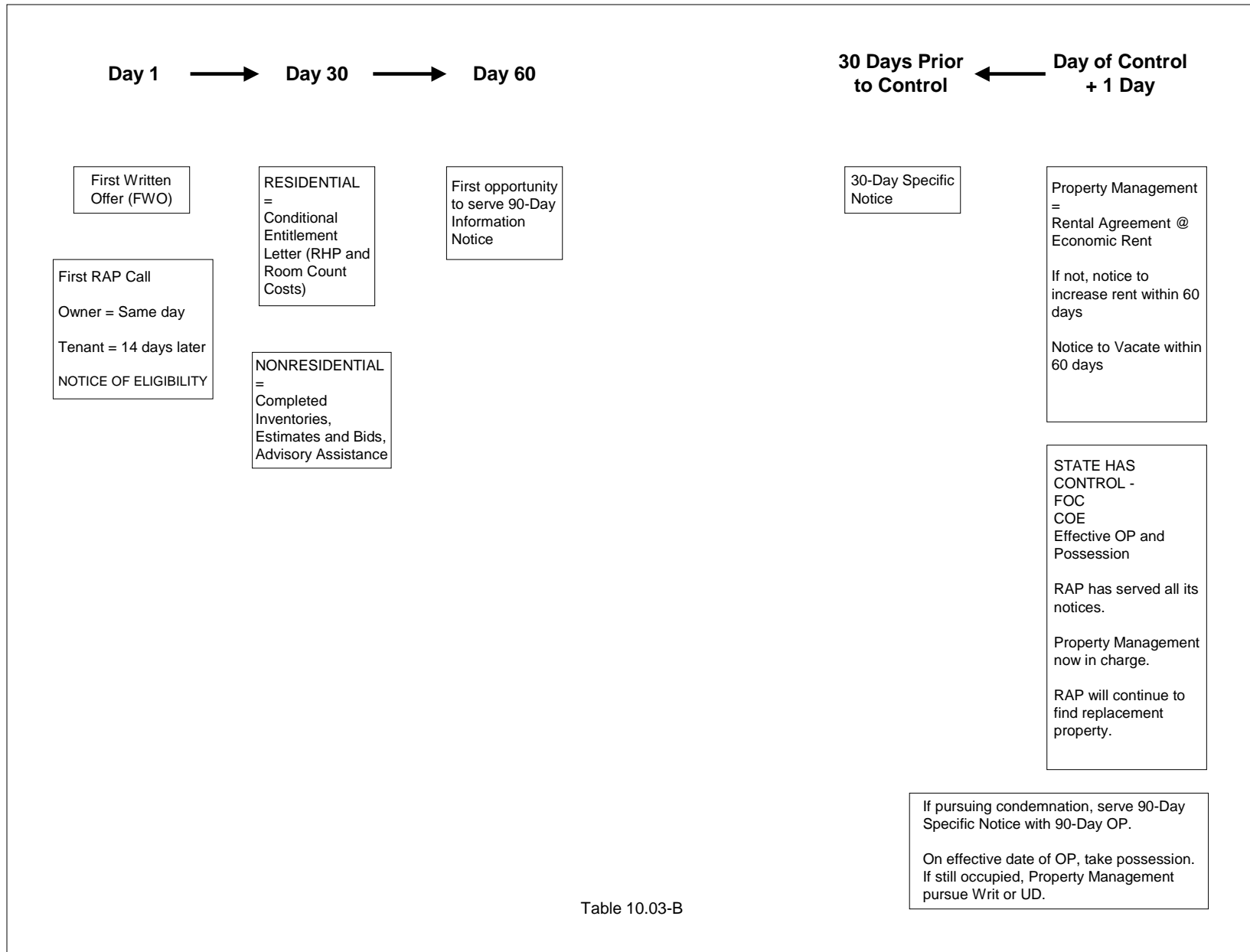
Property Management cannot issue a 30-Day Notice of Termination of Tenancy and Notice to Quit until after the day the Department has possession of the property (RW 11-10). However, RAP can issue the 90-Day Specific Notice and the 30-Day Specific Notice prior to having control of the property, as long as the Region/District is certain the Department will have control before the 90-day or 30-day period expires.

If a 90-Day Specific Notice is issued, the Region/District does not need to issue a 30-Day Specific Notice.

Control of the property is obtained on the date escrow is closed, the Final Order in Condemnation is recorded, the date of possession in the Right of Way Contract (RWC), Right of Entry (RE) or Agreement for Possession and Use (AP&U), or the effective date of the Order for Possession (OP) - usually 30 or 90 days after the court has executed the document before the Department can have physical possession. The owner of the property must have the acquisition funds available to purchase replacement property before the effective date of the 90-Day or 30-Day Notice to Vacate. (Exception: 90-Day Information Notice.)

Either a RAP Agent or Acquisition Agent must serve the Notice to Vacate in person.

If the address of the most comparable property is no longer available, the Region/District must ensure some comparable replacement property is available, within the displacee’s financial means, but it is NOT necessary to reissue a 90-Day Notice to Vacate. The original 90-day period can continue to run.



10.03.10.00 **90-Day Specific Notice with OP**

If the OP contains a specific effective date, the RAP Unit issues a 90-Day Specific Notice that is served simultaneously with the OP and is effective the same date as the OP.

If the OP does not contain a specific date by which it will become effective, the RAP Unit serves a separate 90-Day Specific Notice that is effective the same date as the OP and accompanies the service of the OP. The person making service must calculate the 90th day.

If appropriate, the RAP Unit issues a 90-Day Information Notice before the court issues the OP and then issues a 30-Day Specific Notice with a date certain after the court issues the OP. The person making service must calculate the 30th day. In this case, displacee must receive a full offer of their entitlements and must be furnished the address of at least one comparable replacement dwelling with the 90-Day Information Notice. The effective date of the 30-Day Specific Notice cannot be earlier than the effective date of the OP.

10.03.11.00 **Notices to State-inherited Tenants**

Eligible displacees who are either delinquent in their rental payments to the Department, or in violation of their rental agreement with the Department, are considered unlawful occupants for property management purposes. They are still entitled to their RAP benefits as stated in their Notice of Eligibility and Conditional Entitlement Letter. Property Management will serve either a 3-Day Notice to Pay Rent or Quit or a 30-Day or 60-Day Notice of Termination of Tenancy and Notice to Quit. Property Management is responsible for advising the Region/District RAP Agent that Property Management will begin eviction proceedings.

The RAP Agent must ensure service of the 90-Day Specific Notice or the 90-Day Information Notice with a 30-Day Specific Notice is issued prior to the Department's control of the property so that there is no interference with Property Management's notices. An eligible displacee must receive their RAP notices to ensure compliance with the Uniform Act's requirement to provide appropriate 90-day notices. Property Management is responsible for advising the Region/District RAP Agent that Property Management will begin eviction proceedings. Copies of the RAP notices should be sent to Property Management to be retained in their file when the displacee becomes a state tenant.

Once Property Management decides to evict an unlawful eligible tenant, the eviction process should be carried to conclusion.

Eligible tenants who are evicted by the Department because of unlawful occupancy must be advised that:

- They retain eligibility for relocation advisory assistance.
- Relocation payments and any other payments may be subject to satisfaction of debts owed to the State. (See Section 10.08.10.01 on Delinquent Rent to determine affordability prior to withholding RAP payments.)

Ineligible displacees (e.g., non-U.S. residents, occupants after Department's control, unlawful occupants as determined by 10.01.03.05) will not receive relocation benefits. Generally, these occupants are State tenants who rent the property after acquisition by the State. There are no requirements to provide ineligible displacees with the RAP 90-Day or 30-Day Notices.

Although the Department is under no obligation to the ineligible displacee, Region/District staff are encouraged to provide advisory services to help them find replacement property. There is no requirement to provide advisory assistance to state tenants.

10.03.12.00 **Urgent Need**

In extremely rare circumstances, an eligible displacee may be required to vacate the property on less than 90 days' advance written notice. The Department must determine that delivery of the 90-day notice is impracticable in order for this to occur (i.e., the person's continued occupancy of the property would constitute a substantial danger to health or safety to those occupants or others). The RAP diary should fully document the circumstances that required someone to move prior to issuing 90-day notices.

10.03.13.00 **Notice to Withdraw or Modify Relocation Benefits**

There are situations when it is appropriate to withdraw or modify the relocation benefits that have been provided in a Notice of Eligibility or a Conditional Entitlement Letter. Any time there is a change in the benefits that will be provided to a displacee, the Agent must immediately provide a Notice to Withdraw or Modify Relocation Benefits. The Notice must be personally delivered if possible, but at the very least sent by certified registered mail. However, if the displacee has relied on the promise of relocation benefits and has committed themselves financially or via a contract, the Department may be obligated to pay those relocation benefits in question. Refer to 10.01.04.00 for discussion of Promissory Estoppel and 10.09.07.00 for discussion on appeals due to Promissory Estoppel.

There is no standard form for a Notice to Withdraw or Modify Relocation Benefits. The Agent should prepare a letter that addresses the particular benefit(s) that is impacted (previous amounts, new amounts, reason for the change, etc.) and the right for the person to appeal the determination. A copy of the Appeal Form (RW 10-6) should be provided upon request.

10.03.13.01 **Withdrawal of Benefits**

If the Department determines that a person or persons who has received a Notice of Eligibility is no longer eligible for any of the relocation benefits discussed in the letter, then withdrawal of all relocation benefits must be provided. Note: "All relocation benefits" include Advisory Assistance.

The following situations require an immediate notification to the displacee that their benefits are being withdrawn:

1. A long-term postponement of the project creates a situation wherein only irrevocable commitments are allowed under Departmental policy. Withdrawals must be in accordance with the Department's policy specific to that project (see Section 10.17.00.00 OLD and RARF No. 94-5 OLD).
2. A design modification reduces the requirement for some or all of the property, and the person is no longer required to relocate.

3. The occupant's status as a tenured resident or a valid business is in question, and the Agent has determined they no longer qualify for relocation benefits.
 - A resident purporting to be in occupancy for 90 days is only a seasonal resident and has a primary residence elsewhere.
 - A business claims to operate on the property, but in fact only stores personal property at the site and the business license (and other documentation) shows the primary place of business is at another site.
4. The Department and the occupant are no longer pursuing advanced acquisition, and tenants who have already made efforts to relocate but continue to occupy the property.

A person who receives a Notice of Withdrawal or Modification of Benefits is entitled to appeal the determination. If the person claims Promissory Estoppel, the Statewide Appeals Board must hear the appeal. (See 10.09.07.00.)

There may be other situations that require an immediate withdrawal of benefits. Contact HQ R/W if there are questions about whether a notice should be issued.

10.03.13.02 **Modification of Benefits**

A modification of benefits includes increases and decreases of a monetary benefit, but the person is still entitled to some of the relocation benefits discussed in the Notice of Eligibility.

1. A change in the real estate market indicates the cost of a comparable replacement property is lower than the previous entitlement.
 - A 180-day owner-occupant's price differential is rarely reduced, and only when the Department can document that the person has made no effort to find replacement property based on the amount in the Conditional Entitlement Letter.
2. The 180-day owner-occupant wants to rent.
3. The residential occupant has requested, and received, approval to occupy non-DS&S housing as to size and number of bedrooms.
4. The residential occupant has vacated the displacement property, but has not found replacement property within the one-year time period. (See 10.08.02.00.)
5. A change in the acquisition offer (revised appraisal, administrative settlement) requires a change in Replacement Housing Valuation adjustment (major exterior attribute) or carve-out value (typical residential lot), which modifies the RHP.
6. A further review of the nonresidential operation's documents indicates a change in the previously discussed in-lieu payment, reestablishment payment, or other moving payment.
7. A member of a residential household dies prior to relocation, and the need for a larger replacement property, or a property that is barrier free, no longer exists.
 - The Modification of Benefits can only be mailed after a new RHV is prepared, and only if the occupants have not made a commitment to rent or purchase replacement property.

A person who receives a Notice of Withdrawal or Modification of Benefits that decreases a monetary benefit is entitled to appeal the determination.

There may be other situations that require an immediate withdrawal of benefits. Contact HQ R/W if there are questions about whether a notice should be issued.

CHAPTER 10

Relocation Assistance Table of Contents

FORMS

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90-DAY INFORMATION NOTICE - RESIDENTIAL OCCUPANT

RW 10-18 (REV 2/2004)

DATE	DIST	CO	RTE	KP(P.M.)	EXP AUTH
				PARCEL NO	

Dear _____

The Department of Transportation will soon require the property where you are living for highway construction. It will not be necessary for you to vacate immediately. You will have at least 60 days after you receive this notice before we will serve a formal "30-Day Specific Notice."

This letter is being given so you will have ample time to find a new place to live. If you need assistance in finding a replacement residence, you may reach me at the telephone number or mailing address shown below. I urge you to investigate the suitability of the replacement dwellings listed below:

If the Department has found you ineligible for relocation benefits pursuant to the relocation regulations, it should **NOT** be assumed that by providing you with the above replacement housing addresses, you are now eligible to receive such replacement housing payments.

It may be more than 60 days before the 30-Day Specific Notice is issued to you, but any such notice will contain a specific date on which the Department will have control of the property you now occupy.

_____, Right of Way Agent

Phone Number_____
Office Address**ACKNOWLEDGMENT**

I was personally contacted by the above agent for the Department of Transportation and was provided with the original of this Notice. I was further advised the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed.

DATE: _____

DISPLACEE: _____

Distribution:

Original to Occupants

Copy to Rap File

Copy to Property Management

ADA Notice

For individuals with disabilities, this document is available in alternate formats. For information call (916) 654-6410 Voice, CRS: 1-800-735-2929, or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

90-DAY INFORMATION NOTICE - NONRESIDENTIAL OCCUPANT

RW 10-19 (REV 2/2004)

DATE	DIST	CO	RTE	KP(P.M.)	EXP AUTH
				PARCEL NO	

Dear _____

The Department of Transportation will soon require the property which you are occupying for highway construction. It will not be necessary for you to vacate immediately. You will have at least 60 days after you receive this notice before we will serve a formal "30-Day Specific Notice."

This letter is being given so you will have ample time to find a new place to continue your operation. If you need assistance in finding a replacement property, you may reach me at the telephone number or mailing address shown below.

It may be more than 60 days before the 30-Day Specific Notice is issued to you, but any such notice will contain a specific date on which the Department will have control of the property you now occupy.

_____, Right of Way Agent_____
Phone Number_____
Office Address**ACKNOWLEDGMENT**

I was personally contacted by the above agent for the Department of Transportation and was provided with the original of this Notice. I was further advised the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed.

DATE _____ DISPLACEE: _____

Distribution:

Original to Occupants

Copy to RAP File

Copy to Property

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

90-DAY SPECIFIC NOTICE - RESIDENTIAL OCCUPANT

RW 10-20 (REV 2/2004)

DATE	DIST	CO	RTE	KP(P.M.)	EXP AUTH
				PARCEL NO	

Dear _____

Notice is hereby given that the Department of Transportation is providing you with a 90-Day Notice that the premises situated in the City of _____, County of _____, State of California and commonly known as _____, will transfer to the Department on or before _____ and you will be required to move. If you are still in occupancy of the property on this date you will be required to enter into a Rental Agreement with the Department of Transportation, and pay rent for the continued use of same. You will then be served either a 30-Day or 60-Day Notice to Vacate said premises which will require you to quit and deliver up possession of said premises on or before the specified date. If you fail to do so, the State of California, Department of Transportation, will institute legal proceedings against you to recover possession of said premises, with RENTS and DAMAGES.

In order to maximize your relocation benefits, I will continue to offer relocation assistance and urge you to investigate the suitability of the replacement properties listed below:

If the Department has found you ineligible for relocation benefits pursuant to the relocation regulations, it should **NOT** be assumed that by providing you with the above replacement housing addresses, you are now eligible to receive such replacement housing payments.

_____, Right of Way Agent

Phone Number

Office Address
ACKNOWLEDGMENT

I was personally contacted by the above agent for the Department of Transportation and was provided with the original of this Notice. I was further advised the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed.

DATE: _____ DISPLACEE: _____

Distribution:

Original to Occupants
Copy to RAP File
Copy to Property

ADA Notice

For individuals with disabilities, this document is available in alternate formats. For information call (916) 654-6410 Voice, CRS: 1-800-735-2929, or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

90-DAY SPECIFIC NOTICE - NONRESIDENTIAL OCCUPANT

RW 10-21 (REV 2/2004)

DATE	DIST	CO	RTE	KP(P.M.)	EXP AUTH
				PARCEL NO	

Dear _____

Notice is hereby given that the Department of Transportation is providing you with a 90-day notice that the premises situated in the City of _____, County of _____, State of California and commonly known as _____, will transfer to the Department on or before _____ and you will be required to move. If you are still in occupancy of the property on this date you will be required to enter into a Rental Agreement with the Department of Transportation and pay rent for the continued use of same. You will then be served either a 30-Day or 60-Day Notice to Vacate said premises which will require you to quit and deliver up possession of said premises on or before the specified date. If you fail to do so, the State of California, Department of Transportation, will institute legal proceedings against you to recover possession of said premises, with RENTS and DAMAGES.

_____, Right of Way Agent

Phone _____

Office Address _____

ACKNOWLEDGMENT

I was personally contacted by the above agent for the Department of Transportation and was provided with the original of this Notice. I was further advised the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed.

DATE: _____

DISPLACEE: _____

Distribution:

Original to Occupants

Copy to RAP File

Copy to Property Management

30-DAY SPECIFIC NOTICE - RESIDENTIAL OCCUPANT

RW 10-23 (REV 2/2004)

DATE	DIST	CO	RTE	KP(P.M.)	EXP AUTH
				PARCEL NO	

Dear _____

Previously you received a 90-Day Information Notice advising that the Department of Transportation must soon obtain control of the property you now occupy. In accordance with that letter, notice is hereby given that the Department of Transportation is providing you with a 30-day notice that the premises situated in the City of _____, County of _____, State of California and commonly known as _____, will transfer to the Department on or before _____ and you will be required to move. If you are still in occupancy of the property on this date you will be required to enter into a Rental Agreement with the Department of Transportation and pay rent for the continued use of same. You will then be served either a 30-Day or 60-Day Notice to Vacate said premises that will require you to quit and deliver your possession of said premises on or before the specified date. If you fail to do so, the State of California, Department of Transportation, will institute legal proceedings against you to recover possession of said premises, with RENTS and DAMAGES.

We will continue to offer relocation assistance and urge you to investigate the suitability of the replacement properties listed below:

If the Department has found you ineligible for relocation benefits pursuant to the relocation regulations, it should **NOT** be assumed that by providing you with the above replacement housing addresses, you are now eligible to receive such replacement housing payments.

_____, Right of Way Agent

Phone

Office Address

ACKNOWLEDGMENT

I was personally contacted by the above agent for the Department of Transportation and was provided with the original of this Notice. I was further advised the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed.

DATE: _____

DISPLACEE: _____

Distribution:

Original to Occupants

Copy to RAP File

Copy to Property Management

30-DAY SPECIFIC NOTICE - NONRESIDENTIAL OCCUPANT

RW 10-24 (REV 2/2004)

DATE	DIST	CO	RTE	KP(P.M.)	EXP AUTH
				PARCEL NO	

Dear _____

Previously you received a 90-Day Information Notice advising that the Department of Transportation will soon obtain control of the property you now occupy. In accordance with that letter, notice is hereby given that the Department of Transportation is providing you with a 30-day notice that the premises situated in the City of _____, County of _____, State of California and commonly known as _____, will transfer to the Department on or before _____ and you will be required to move. If you are still in occupancy of the property on this date you will be required to enter into a Rental Agreement with the Department of Transportation and pay rent for the continued use of same. You will then be served either a 30-Day or 60-Day Notice to Vacate said premises which will require you to quit and deliver up possession of said premises on or before the specified date. If you fail to do so, the State of California, Department of Transportation, will institute legal proceedings against you to recover possession of said premises, with RENTS and DAMAGES.

In order to maximize your relocation benefits, I will continue to offer relocation assistance and urge you to investigate the suitability of the replacement properties.

_____, Right of Way Agent

Phone Number_____
Office Address**ACKNOWLEDGMENT**

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DATE: _____ DISPLACEE: _____

Distribution:

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ADA Notice

For individuals with disabilities, this document is available in alternate formats. For information call (916) 654-6410 Voice, CRS: 1-800-735-2929, or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

COMPUTATION OF RENT DIFFERENTIAL PAYMENT

RW 10-41 (REV 2/2004)

DISTRICT:	COUNTY:	ROUTE:	KP(P.M.):
PARCEL NUMBER:		CLAIMANT:	

(1) Actual Replacement Property

- (a) Contract Rent for the actual replacement property
Average Utility Costs from the RHV (from 1(b) below)

\$ _____
+ \$ _____
= \$ _____

- (b) Rental rate of the most comparable replacement property (RHV)
Average Utility Costs (RHV)

\$ _____
+ \$ _____
= \$ _____

- (c) Lesser of Item 1(a) or Item 1(b)

= \$ _____

(2) Displacement Property

- (a) Base Monthly Rent used in the RHV
(Average 3 months, Economic, or 30% of income)
(b) Actual average costs for utilities not included in base rent
(c) Total of Items 2(a) or Item 2(b)

\$ _____
+ \$ _____
= \$ _____

- (3) Increased rent and utilities - Difference Item 1(c) minus Item 2(c)

= \$ _____

- (4) Rent Differential Payment - Item (3) x 42 months

= \$ _____

Should not exceed the RD amount from the last approved RHV

If RD is over \$10,000 then calculated advance payments and installments**ADVANCE PAYMENTS****Amount****Balance Owed**
\$ _____

Amount of the Rent Differential - Item (4) above

First Month's Rent

\$ _____

Last Month's Rent

\$ _____

Advanced Security Deposit

\$ _____

Subtotal**=****- \$ _____ = \$ _____****INSTALLMENTS****From (Date)****To (Date)**

First Installment - Item (3) x 6 months

*

- \$ _____ = \$ _____

Second Installment - same amount as First Installment

- \$ _____ = \$ _____

Third Installment

- \$ _____ = \$ _____

Fourth Installment

- \$ _____ = \$ _____

Fifth Installment

- \$ _____ = \$ _____

Sixth Installment

- \$ _____ = \$ _____

Seventh/Final Installment - balance owed

**

- \$ _____ = \$ - 0 -

Total amount paid to displacee should equal Item (4) above

TOTAL**\$ _____**

* First Installment "From (Date)" should be the date the displacee will occupy the replacement property per the Rental Agreement

** Sixth or final Installment should be the remaining balance after deducting advance payments. The final payment can be made as soon as the "Balance Owed" drops below \$10,000.

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